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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,240	05/11/2001	Christine S. Vincent	26271-02	5992

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EXAMINER	
GARCIA, ERNESTO	

ART UNIT	PAPER NUMBER
3679	

DATE MAILED: 12/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/853,240	VINCENT ET AL.	
	Examiner	Art Unit	
	Ernesto Garcia	3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 October 2003*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,5-7,9,11-16,18 and 19* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,5-7,9,11-16,18 and 19* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *14 October 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Drawings

The drawings were received on 10/14/03. These drawings are acceptable.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 2, 5-7, 9, 11-16, 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharp et al., 6,263,317.

Regarding claim 1, Sharp et al. disclose a method for e-commerce over a network, the method includes:

transmit an order entry data set **306** from a customer to an exchange **110**; the order data set comprises a product identifier **1540** and a product volume **565**;

determine a manufacturer **130** from the product identifier **1540**;

transmit a manufacturer specific order from the exchange **110** to the manufacturer **130** (col. 3, lines 32-36); the manufacturer specific order comprises the product identifier **1540** and the product volume **565**;

transmit a product availability request from the manufacturer **130** to a dealer **140** (col. 4, lines 12-13); the product availability request comprises the product identifier **1540** and the product volume **565**;

transmit an availability report from the dealer **140** to the manufacturer **130** (col. 4, lines 24-26); the availability report comprises a dealer price adjustment (either a commission, the shipping cost, or both);

transmit a manufacturers confirmation report from the manufacturer **130** to the exchange **110**; the manufacturers confirmation report comprises an availability index (the quantity available) and a customer price (the cost of the product); the availability index is derived from the availability report (the dealer price adjustment --the commission, the shipping cost, or both) and the customer price is derived from the dealer price adjustment (the cost of the product, and the commission, the shipping cost, or both);

transmit a product order confirmation from the exchange **110** to the customer **120** (a confirmation is often sent to the customer after internet transactions). The product order confirmation comprises the manufacturers confirmation report (the quantity available and the cost of the product);

transport a product **730** corresponding to the product identifier **1540** from the dealer **140** to the customer **120** (the dealer ships the product to the customer);

transfer purchase funds from the customer **120** to the dealer **140** (this is normal procedure; either a dealer charges the customer or the exchange charges the customer); the purchase funds corresponds to the customer price; and,

transfer manufacturer funds from the dealer **140** to the manufacturer **130** (although not specifically stated in Sharp et al., it is well known in business for a dealer to pay the manufacturer for products purchased from the manufacturer either credited or paid in advanced).

Regarding claim 2, the manufacturer specific order further comprises a customer identifier **555**.

Regarding claim 5, the network is a computer network.

Regarding claim 6, the computer network is a www.

Regarding claim 7, the method further comprises:

transmit a purchase order from the customer **120** to the exchange **110** before transport of the product **730**

Regarding claim 9, the method further comprises:

transmit a purchase confirmation from the exchange **110** to the manufacturer **130** (this step is normal procedure when the customer places a purchase order).

Regarding claim 11, the method further comprises

a contractual price relationship between the manufacturer and the customer (applicant is reminded that when an order is placed, the price at which the customer agrees to pay is a contractual price).

Regarding claim 12, the customer price is derived from the contractual price relationship and the dealer price adjustment (the commission, the shipping cost, or both).

Regarding claims 13-16 and 18-19, given the method performed by Sharp et al., the system is made.

Response to Arguments

Applicant's arguments filed 10/14/03 have been fully considered but they are not persuasive.

Applicant has argued that there is no adjustment for specific intra-channel relationships between the customer and the dealer, the customer and the manufacturer, or the dealer and the manufacture. Although the term "adjustment" is two-fold, the argument appears to indicate that the relationship between the customer and the dealer

is not adjusted. In contrary, a relationship exists between the customer and the dealer. The relationship exists by mutual agreement. The customer adjusts to the dealer's availability to deliver the product.

Applicant has argued that Sharp et al. fails to teach the price to the customer dependant on the dealer or the manufacturer. In economics, a price of a product is dependent on the dealer. The dealer usually sets the price to the product according to the manufacturer's suggested sale price or the dealer adjusts the price according to supply-and-demand.

Applicant has argued that Sharp et al. fails to teach any price variations, within [a] channel, being relayed to the customer. The examiner takes a position in that the price variations are finally sent to the customer in the form of the price including shipping costs or tax costs versus just the product cost.

Applicant has argued that there would be no mechanism for a customer to obtain a different price from a specific manufacture, or dealer, since the information is not transferred within the various communication links. Applicant is reminded that information is transferred via email to the dealer and the customer. Furthermore, the Office has noted that the features upon which applicant relies (i.e., obtaining a different price from a specific manufacturer or dealer) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant has argued that the present invention discloses that after an order is placed, the manufacturer and the dealer are determined prior to determining the customer price. Applicant should reconsider this argument as line 6 of claim 1 only indicates that the manufacturer is determined. Applicant is reminded that Sharp et al. or any web store has an identifier corresponding to the manufacturer of the product. The manufacturer is determined either by the identifier being a SKU number, a UPC number or a product number.

Applicant has argued that the method of determining the manufacturer is through the dealer price adjustment being carried through the various communication links culminating in a customer price, which may be different for manufacturer, dealer or customer. Applicant is reminded that the step of determining the manufacturer does not indicate how this step is accomplished. Line 6 merely states that the manufacturer is determined from the product identifier. Furthermore, the dealer price adjustment is not carried to the exchange and the customer according to lines 24-27 of claim 1. Lines 24-27 indicate the customer receives the product order confirmation, which the product order confirmation is the manufacturers confirmation report. Lines 20-21 indicate the manufacturers confirmation report is an availability index, which the manufacturer transmits to the exchange. Therefore, the manufacturers confirmation report or the

availability index is not the dealer price adjustment and therefore the price adjustment is not carried through the exchange or the customer. Furthermore, the availability index is a number, which is derived from the availability report and a customer price. Deriving does not constitute that the number is the dealer price adjustment.

Applicant has argued that the Office has failed to elaborate where in the reference of Sharp et al. teaches manufacture[r]s confirmation report comprises an availability index (the quantity available) and a customer price (the cost of the product). Applicant is urged to view column 5 in lines 39-43 for the quantity available and column 5 in lines 10-13 for the cost of the product. Applicant is reminded that column 5 in lines 5-18 discusses the cost of the product has been determined after the request for availability from a manufacturer.

Applicant has argued that the Office errs in equating a predetermined price with a dealer adjusted price to the customer. In making this argument, applicant is making the assumption that the dealer adjusted price is sent to the customer. However, lines 24-25 of claim 1 indicate that the product order confirmation has been sent to the customer and not the dealer price adjustment. The office takes the position that the initial cost of the product does not include shipping cost, tax or both, and that the adjusted price would be the initial cost of the product plus the shipping cost, the tax, or both. Therefore, the availability index is derived from the availability report (the dealer price adjustment -- the shipping cost, tax or both. Although the term commission is not used

in the patent. It is well envisioned that commissions are taken by the exchange 110 to run a business.

Conclusion

After reconsidering claim 1 again, it is unclear what exactly constitutes a dealer price adjustment when applied to the customer price. As far as e-coupons have been in e-commerce, e-coupons have been know to adjust the price of quoted price.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 703-308-8606. The examiner can normally be reached from 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H Browne can be reached on 703-308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.

Lynne H. Browne
Supervisory Patent Examiner
Technology Center 3600

E.G.
December 9, 2003